

The PRESIDING OFFICER (Mr. CHAMBLISS). Without objection, it is so ordered.

Mr. WARNER. Mr. President, I express my profound gratitude to the members of the committee and, most notably, the Presiding Officer. I ask that the bill be read the third time.

The PRESIDING OFFICER. Is there further debate?

If not, the question is on the engrossment and third reading of the bill.

The bill was ordered to be engrossed for a third reading and was read the third time.

The PRESIDING OFFICER. The bill having been read the third time, the question is, Shall the bill pass?

Mr. WARNER. Mr. President, I ask for the yeas and nays on passing of the bill.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The clerk will call the roll.

The assistant legislative clerk called the roll.

Mr. REID. I announce that the Senator from Massachusetts (Mr. KERRY) is necessarily absent.

I further announce that, if present and voting, the Senator from Massachusetts (Mr. KERRY) would vote "yea".

The PRESIDING OFFICER. Are there any other Senators in the Chamber desiring to vote?

The result was announced—yeas 98, nays 1, as follows:

[Rollcall Vote No. 194 Leg.]

YEAS—98

Akaka	Dole	Lott
Alexander	Domenici	Lugar
Allard	Dorgan	McCain
Allen	Durbin	McConnell
Baucus	Edwards	Mikulski
Bayh	Ensign	Miller
Bennett	Enzi	Murkowski
Biden	Feingold	Murray
Bingaman	Feinstein	Nelson (FL)
Bond	Fitzgerald	Nelson (NE)
Boxer	Frist	Nickles
Breaux	Graham (FL)	Pryor
Brownback	Graham (SC)	Reed
Bunning	Grassley	Reid
Burns	Gregg	Roberts
Campbell	Hagel	Rockefeller
Cantwell	Harkin	Santorum
Carper	Hatch	Sarbanes
Chafee	Hollings	Schumer
Chambliss	Hutchison	Sessions
Clinton	Inhofe	Shelby
Cochran	Inouye	Smith
Coleman	Jeffords	Snowe
Collins	Johnson	Specter
Conrad	Kennedy	Stabenow
Cornyn	Kohl	Stevens
Corzine	Kyl	Sununu
Craig	Landrieu	Talent
Crapo	Lautenberg	Leahy
Daschle	Leahy	Thomas
Dayton	Levin	Voinovich
DeWine	Lieberman	Warner
Dodd	Lincoln	Wyden

NAYS—1

Byrd

NOT VOTING—1

Kerry

The bill (S. 1050), as amended, was passed.

(The bill will be printed in a future edition of the RECORD.)

Mr. WARNER. Mr. President, I move to reconsider the vote.

Mr. LEVIN. I move to lay that motion on the table.

The motion to lay on the table was agreed to.

Mr. WARNER. I wish to thank all of our colleagues for their patience. I ask unanimous consent that S. 1050, as amended, be printed as passed.

The PRESIDING OFFICER. Without objection, it is so ordered.

Mr. WARNER. I ask unanimous consent that the Senate proceed immediately to the consideration, en bloc, of S. 1047 through S. 1049, Calendar Order Nos. 93, 94, 95; that all after the enacting clause of those bills be stricken and that the appropriate portion of S. 1050, as amended, be inserted in lieu thereof according to the schedule which I am sending to the desk; that these bills be advanced to third reading and passed, the motions to reconsider en bloc be laid upon the table, and that the above actions occur without intervening action or debate.

The PRESIDING OFFICER. Without objection, it is so ordered.

#### DEPARTMENT OF DEFENSE AUTHORIZATION ACT FOR FISCAL YEAR 2004

The bill (S. 1047) to authorize appropriations for fiscal year 2004 for military activities of the Department of Defense, to prescribe personnel strengths for such fiscal year for the Armed Forces, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as amended.

(The bill will be printed in a future edition of the RECORD.)

#### MILITARY CONSTRUCTION AUTHORIZATION ACT FOR FISCAL YEAR 2004

The bill (S. 1048) to authorize appropriations for fiscal year 2004 for military construction and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as amended.

(The bill will be printed in a future edition of the RECORD.)

#### DEPARTMENT OF ENERGY NATIONAL SECURITY ACT FOR FISCAL YEAR 2004

The bill (S. 1049) to authorize appropriations for fiscal year 2004 for defense activities of the Department of Energy, and for other purposes, was considered, ordered to be engrossed for a third reading, read the third time, and passed, as amended.

(The bill will be printed in a future edition of the RECORD.)

#### ORDER OF BUSINESS

The PRESIDING OFFICER. The majority leader.

Mr. FRIST. Mr. President, I thank the two managers for their hard work

and willingness to stay late into the evening in an effort that some said could not be done over the course of the last 3 days, but both managers said we were going to do it. I congratulate them for delivering on that commitment.

In a couple of moments, we will have an additional vote on a Ninth Circuit court judge.

Before doing that, the Democratic leader and I wanted to have a general understanding with our colleagues of where we are and where we will be going over the next couple of days, or next couple 12 hours, say, 18 hours. We will see how long it will be.

It is my understanding we will be receiving sometime in the next hour the conference report on the jobs and growth package. It will be filed shortly in the House. I don't know exactly what time that will be. We just left there. Hopefully, it will be in the next hour or so. It is my hope we will be able to begin debate tonight, following the vote on the judge, on the jobs and growth package.

If that is the case, what I think, in talking to the Democratic leader, we would like to accomplish is the debate, which statutorily would be 10 hours, would begin, although we will not officially start the clock at that point, right after the vote on the judicial nominee. If that were acceptable to our colleagues, again, depending on what time the language arrived and papers could be filed, we would be able to vote on final passage tomorrow morning. This is on the jobs and growth package.

That is not all the business and I will comment on the other business.

Ideally, we would be able to vote sometime around 9:30 tomorrow, although we cannot say with certainty at this juncture.

If that were the case and we were able to complete that vote, we still have the debt limit extension to address, which is something that we have to, absolutely no question about it, deal with tomorrow. Everyone agrees with that, although I do understand there will be amendments from the other side of the aisle to allow discussion. Some of those amendments will be substantive and useful to discuss and debate and some, hopefully, will disappear, and we will talk about the issues at some point. I believe we are talking about eight amendments.

We will have to pass the debt ceiling extension tomorrow. How many amendments, we have not yet decided. We have to wait until tomorrow. I am not sure how long we need to talk on the debt ceiling, but if we had the vote on the jobs and growth package at 9:30 in the morning, I imagine there is a period we might be able to agree to tonight—or may not—at which time we start the amendment process and have a series of amendments, hopefully one after another, or I would encourage that to be the case.

People have a lot of commitments tomorrow and tomorrow evening. We

want to do the business in a very deliberate way. That is a rough outline.

Let me turn to my distinguished colleague, Senator DASCHLE, to comment. Right now we are talking not unanimous consents but a general understanding of how the next day will play out.

Mr. DASCHLE. Mr. President, the majority leader and I have been discussing this now for the last several hours and he has described it accurately. Our hope is we can use this evening productively, knowing that a lot of people have schedules tomorrow afternoon and tomorrow evening they will want to keep.

While it would be difficult for us to agree at this point to begin the deliberative process on the conference report until we have actually had a chance to see it and review it, there is no reason why we cannot begin the debate.

We are suggesting that we informally begin the debate, have people address the issues if they want to be heard on the issues. If we can get a copy of a conference report in the next couple of hours, we may be in a position then to retroactively agree to the time already spent and make a commitment with regard to the time certain on the conference report itself. That could be as early as tomorrow between 9:30 and 10.

It would then be our hope we could move to the debt limit. We are not sure yet how many amendments may be offered, but we will try to limit the amount of time on each amendment so we can accommodate the schedules, with the expectation that by early afternoon we could depart.

The majority leader has articulated this understanding accurately and we will work with him to see if we can accomplish this in the next few hours.

Mr. FRIST. Mr. President, let me add, for tomorrow we do the jobs and growth package, we would take what time is necessary on the debt ceiling extension, and then we also have one other issue, which is unemployment insurance, which we will be addressing tomorrow. Again, all of this can be done in a very short period of time. These are not new issues. In each and every one of them, we know what the consequences are. They have been debated. The jobs and growth package we talked a lot about, although it is not exactly as written now, but the issues we talked about and discussed.

On all three of these issues, we will finish them. We could finish them, actually, early afternoon tomorrow if we stay focused, and that will be my intent. I understand some people on the other side of the aisle may want to talk on the debt ceiling and possibly unemployment insurance as well.

I think if we work together in a collegial way, we will be able to complete all of this legislation. Again, it has been an ambitious schedule for the week, but based on what we have seen over the last 3 years, we are making progress as we go forward.

# EXECUTIVE SESSION

## NOMINATION OF CONSUELO MARIA CALLAHAN, OF CALIFORNIA, TO BE UNITED STATES CIRCUIT JUDGE FOR THE NINTH CIRCUIT

The PRESIDING OFFICER. Under the previous order, the Senate will proceed to executive session to consider the following nomination, which the clerk will report.

The assistant legislative clerk read the nomination of Consuelo Maria Callahan, of California, to be United States Circuit Judge for the Ninth Circuit.

The PRESIDING OFFICER. Under the previous order, there are 10 minutes evenly divided prior to the vote on the nomination.

Who yields time?

Mr. LEAHY. Have the yeas and nays been ordered on this nomination?

The PRESIDING OFFICER. They have not.

Mr. LEAHY. I ask for the yeas and nays.

The PRESIDING OFFICER. Is there a sufficient second?

There is a sufficient second.

The yeas and nays were ordered.

Mr. HATCH. Mr. President, I express my enthusiastic support for the confirmation of Consuelo Callahan to the Ninth Circuit Court of Appeals. Justice Callahan is an outstanding nominee with broad support on both sides of the aisle. She has the support of both of the distinguished senators from her home state of California, and she was unanimously approved by the Judiciary Committee the day after her hearing.

Justice Callahan received her undergraduate degree from Stanford University and her law degree from McGeorge School of Law. In 1976, she began her 10-year career as a Deputy District Attorney with the San Joaquin County District Attorney's Office where she specialized in the prosecution of child abuse and sexual assault cases. During her 10-year career as a prosecutor, she handled more than 50 jury trials.

Justice Callahan also has first-hand experience with breaking the gender barrier. In 1992, she was appointed to the Superior Court in San Joaquin County, where she was the first female and Hispanic to serve on that court. She was also the first female member of two local social and service organizations. In 1996, Justice Callahan became the first judge from San Joaquin County to be elevated to the California Court of Appeal in more than 73 years.

In addition to her outstanding career as a prosecutor and a jurist, she has donated her time to organizations involved in addressing the problem of child abuse and sexual assault and has received an award for her work in this area. She has received other awards during her career, including the Governor's award for Criminal Justice Programs and the Susan B. Anthony award for Women of Achievement. In 1999,

Justice Callahan was inducted into the San Joaquin County Mexican-American Hall of Fame.

The Committee has received numerous letters supporting Justice Callahan's nomination to the Ninth Circuit. The La Raza Lawyer's Association of Sacramento described Justice Callahan's professional qualifications in the following way: "as a state appellate court justice, her opinions have been detailed, thoughtful and supportive of legal precedent. . . . She possesses both the intellect and temperament to be an outstanding justice of the Ninth Circuit Court of Appeals."

The ten justices that serve with Justice Callahan on the Third Appellate District and work with her every day also sent a letter to the Committee praising her skills as a jurist. They write, "During her more than six years on our court, Connie has shown that she has the integrity, capacity, collegiality, and diligence to serve with distinction on the Ninth Circuit. Our only reservation in recommending her confirmation is that it will mean a significant loss to our court. We will miss Connie's energy and enthusiasm, her legal skills, and the positive way in which she fulfills her responsibilities as an appellate jurist."

Her colleagues' loss will be the federal judiciary's gain, as I have great confidence that the beleaguered Ninth Circuit will greatly benefit from her confirmation. I urge my colleagues to support this nomination.

Mr. LEAHY. Mr. President, each of the Senators from California would like to speak.

Mrs. FEINSTEIN. Mr. President, I rise in support of Justice Callahan to go from the California State appellate court to the Ninth Circuit Court of Appeals. This woman was really born in Senator BOXER's and my backyard. She is a Bay area person. She was born in Palo Alto. She attended Stanford, graduated with honors, attended the University of the Pacific McGeorge Law School. She has been both a deputy city attorney and deputy district attorney. She founded the first child abuse unit in the DA's Office of San Joaquin County. In 1996 she was elevated to the State Court of Appeals from the Superior Court of San Joaquin County. She has served with distinction for the past 6 years, has extraordinarily strong support.

I certainly believe, and I believe Senator BOXER concurs in this, that she is going to be an excellent judge of the Ninth Circuit Court of Appeals. I am delighted to support her and to recommend her and to vote for her.

I yield the floor.

Mrs. BOXER. Mr. President, I am very pleased to join with my colleague, Senator FEINSTEIN, in support of this fine nominee.

To support Consuelo "Connie" Callahan to be a judge for the U.S. Circuit Court of Appeals for the Ninth Circuit.

Judge Callahan is a native Californian, born in Palo Alto. She is a graduate of Stanford University and the